

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF TEXAS

GALVESTON DIVISION

BERTIN LOUBEAU, #1152488

v.

NATHANIEL QUARTERMAN,  
DIRECTOR OF TDCJ-CID

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CIVIL ACTION NO. G-06-748

**ORDER**

Before the Court is the Report and Recommendation of the United States Magistrate Judge that was entered on March 22, 2007, recommending that Respondent's Motion for Summary Judgment (Instrument 8), in which he argues Petitioner's claims are time barred, be denied. In the Report and Recommendation the Magistrate Judge further recommends that, since Respondent expressly reserved his defenses in the event that the Court determined Petitioner's claims were not time barred, the case be referred back to the Magistrate for further proceeding. Respondent has filed no objections. Petitioner, however, has filed his Objections to the Report and Recommendation in a timely manner.

In his Objections, Petitioner objects to the recommendation that this case be referred back to the Magistrate Judge for further proceedings. Petitioner claims that because Respondent filed a "frivolous summary judgment" he "should now be barred by both the doctrine of estoppel and the

doctrine of estoppel by silence from receiving more time to respond.” Pet’r Obj. at 3.

Having given this matter *de novo* review under 28 U.S.C. § 636(b)(1)(C), this Court finds no merit in Petitioner’s objections and concludes that the Report and Recommendation is correct and it is, therefore, **ACCEPTED** by this Court in its entirety and incorporated by reference herein.

Accordingly, it is **ORDERED** that Respondent’s Motion for Summary Judgment (Instrument No. 8) is **DENIED**. It is further **ORDERED** that this case shall be returned to the Magistrate Judge for further proceedings.

**DONE** at Galveston, Texas this 23<sup>rd</sup> day of April, 2007

  
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Samuel B. Kent  
United States District Judge